

**ASSEMBLY BILL**

**No. 2625**

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**Introduced by Assembly Member Villines**

February 19, 2010

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An act to amend Section 3201.7 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2625, as introduced, Villines. Workers' compensation.

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment.

Existing law requires the Department of Industrial Relations and the courts of the state to recognize as valid and binding any labor-management agreements meeting prescribed criteria for certain employers or groups of employers, except as provided.

This bill would make the above-described provisions applicable to the state in its capacity as an employer.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 3201.7 of the Labor Code is amended to
- 2 read:
- 3 3201.7. (a) Except as provided in subdivision (b), the
- 4 Department of Industrial Relations and the courts of this state shall

1 recognize as valid and binding any labor-management agreement  
2 that meets all of the following requirements:

3 (1) The labor-management agreement has been negotiated  
4 separate and apart from any collective bargaining agreement  
5 covering affected employees.

6 (2) The labor-management agreement is restricted to the  
7 establishment of the terms and conditions necessary to implement  
8 this section.

9 (3) The labor-management agreement has been negotiated in  
10 accordance with the authorization of the administrative director  
11 pursuant to subdivision (d), between an employer or groups of  
12 employers and a union that is the recognized or certified exclusive  
13 bargaining representative that establishes any of the following:

14 (A) An alternative dispute resolution system governing disputes  
15 between employees and employers or their insurers that  
16 supplements or replaces all or part of those dispute resolution  
17 processes contained in this division, including, but not limited to,  
18 mediation and arbitration. Any system of arbitration shall provide  
19 that the decision of the arbiter or board of arbitration is subject to  
20 review by the appeals board in the same manner as provided for  
21 reconsideration of a final order, decision, or award made and filed  
22 by a workers' compensation administrative law judge pursuant to  
23 the procedures set forth in Article 1 (commencing with Section  
24 5900) of Chapter 7 of Part 4 of Division 4, and the court of appeals  
25 pursuant to the procedures set forth in Article 2 (commencing with  
26 Section 5950) of Chapter 7 of Part 4 of Division 4, governing  
27 orders, decisions, or awards of the appeals board. The findings of  
28 fact, award, order, or decision of the arbitrator shall have the same  
29 force and effect as an award, order, or decision of a workers'  
30 compensation administrative law judge. Any provision for  
31 arbitration established pursuant to this section shall not be subject  
32 to Sections 5270, 5270.5, 5271, 5272, 5273, 5275, and 5277.

33 (B) The use of an agreed list of providers of medical treatment  
34 that may be the exclusive source of all medical treatment provided  
35 under this division.

36 (C) The use of an agreed, limited list of qualified medical  
37 evaluators and agreed medical evaluators that may be the exclusive  
38 source of qualified medical evaluators and agreed medical  
39 evaluators under this division.

40 (D) Joint labor management safety committees.

1 (E) A light-duty, modified job, or return-to-work program.

2 (F) A vocational rehabilitation or retraining program utilizing  
3 an agreed list of providers of rehabilitation services that may be  
4 the exclusive source of providers of rehabilitation services under  
5 this division.

6 (b) (1) Nothing in this section shall allow a labor-management  
7 agreement that diminishes the entitlement of an employee to  
8 compensation payments for total or partial disability, temporary  
9 disability, vocational rehabilitation, or medical treatment fully paid  
10 by the employer as otherwise provided in this division; nor shall  
11 any agreement authorized by this section deny to any employee  
12 the right to representation by counsel at all stages during the  
13 alternative dispute resolution process. The portion of any agreement  
14 that violates this paragraph shall be declared null and void.

15 (2) The parties may negotiate any aspect of the delivery of  
16 medical benefits and the delivery of disability compensation to  
17 employees of the employer or group of employers that are eligible  
18 for group health benefits and nonoccupational disability benefits  
19 through their employer.

20 (c) Subdivision (a) shall apply only to the following:

21 (1) An employer developing or projecting an annual workers'  
22 compensation insurance premium, in California, of fifty thousand  
23 dollars (\$50,000) or more, and employing at least 50 employees,  
24 or any employer that paid an annual workers' compensation  
25 insurance premium, in California, of fifty thousand dollars  
26 (\$50,000), and employing at least 50 employees in at least one of  
27 the previous three years.

28 (2) Groups of employers engaged in a workers' compensation  
29 safety group complying with Sections 11656.6 and 11656.7 of the  
30 Insurance Code, and established pursuant to a joint labor  
31 management safety committee or committees, that develops or  
32 projects annual workers' compensation insurance premiums of  
33 five hundred thousand dollars (\$500,000) or more.

34 (3) Employers or groups of employers, including cities and  
35 counties, that are self-insured in compliance with Section 3700  
36 that would have projected annual workers' compensation costs  
37 that meet the requirements of, and that meet the other requirements  
38 of, paragraph (1) in the case of employers, or paragraph (2) in the  
39 case of groups of employers.

40 (4) *The state in its capacity as an employer.*

(d) Any recognized or certified exclusive bargaining representative in an industry not covered by Section 3201.5, may file a petition with the administrative director seeking permission to negotiate with an employer or group of employers to enter into a labor-management agreement pursuant to this section. The petition shall specify the bargaining unit or units to be included, the names of the employers or groups of employers, and shall be accompanied by proof of the labor union's status as the exclusive bargaining representative. The current collective bargaining agreement or agreements shall be attached to the petition. The petition shall be in the form designated by the administrative director. Upon receipt of the petition, the administrative director shall promptly verify the petitioner's status as the exclusive bargaining representative. If the petition satisfies the requirements set forth in this subdivision, the administrative director shall issue a letter advising each employer and labor representative of their eligibility to enter into negotiations, for a period not to exceed one year, for the purpose of reaching agreement on a labor-management agreement pursuant to this section. The parties may jointly request, and shall be granted, by the administrative director, an additional one-year period to negotiate an agreement.

(e) No employer may establish or continue a program established under this section until it has provided the administrative director with all of the following:

(1) Upon its original application and whenever it is renegotiated thereafter, a copy of the labor-management agreement and the approximate number of employees who will be covered thereby.

(2) Upon its original application and annually thereafter, a statement signed under penalty of perjury, that no action has been taken by any administrative agency or court of the United States to invalidate the labor-management agreement.

(3) The name, address, and telephone number of the contact person of the employer.

(4) Any other information that the administrative director deems necessary to further the purposes of this section.

(f) No collective bargaining representative may establish or continue to participate in a program established under this section unless all of the following requirements are met:

(1) Upon its original application and annually thereafter, it has provided to the administrative director a copy of its most recent

1 LM-2 or LM-3 filing with the United States Department of Labor,  
2 where such filing is required by law, along with a statement, signed  
3 under penalty of perjury, that the document is a true and correct  
4 copy.

5 (2) It has provided to the administrative director the name,  
6 address, and telephone number of the contact person or persons  
7 of the collective bargaining representative or representatives.

8 (g) Commencing July 1, 2005, and annually thereafter, the  
9 Division of Workers' Compensation shall report to the Director  
10 of Industrial Relations the number of labor-management  
11 agreements received and the number of employees covered by  
12 these agreements.

13 (h) By June 30, 2006, and annually thereafter, the administrative  
14 director shall prepare and notify Members of the Legislature that  
15 a report authorized by this section is available upon request. The  
16 report based upon aggregate data shall include the following:

17 (1) Person hours and payroll covered by agreements filed.

18 (2) The number of claims filed.

19 (3) The average cost per claim shall be reported by cost  
20 components whenever practicable.

21 (4) The number of litigated claims, including the number of  
22 claims submitted to mediation, the appeals board, or the court of  
23 appeal.

24 (5) The number of contested claims resolved prior to arbitration.

25 (6) The projected incurred costs and actual costs of claims.

26 (7) Safety history.

27 (8) The number of workers participating in vocational  
28 rehabilitation.

29 (9) The number of workers participating in light-duty programs.

30 (10) Overall worker satisfaction.

31 The division shall have the authority to require employers and  
32 groups of employers participating in labor-management agreements  
33 pursuant to this section to provide the data listed above.

34 (i) The data obtained by the administrative director pursuant to  
35 this section shall be confidential and not subject to public disclosure  
36 under any law of this state. However, the Division of Workers'  
37 Compensation shall create derivative works pursuant to  
38 subdivisions (f) and (g) based on the labor-management agreements  
39 and data. Those derivative works shall not be confidential, but  
40 shall be public. On a monthly basis, the administrative director

- 1 shall make available an updated list of employers and unions
- 2 entering into labor-management agreements authorized by this
- 3 section.

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